

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8909 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

HARIJAN UTKARSH CO.OP. HOUSINGSOCIETY LIMITED

Versus

UNION OF INDIA

Appearance:

MR HJ NANAVATI for Petitioner

MR JD AJMERA for Respondent No. 1

MR SHAILESH BRAHMBHATT FOR M/S NJ MEHTA ASSO.
for Respondent No. 2

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 13/08/96

ORAL JUDGEMENT

1. The petitionerr Shri Harijan Utkarsh Cooperative Housing Society, Gandhidham is a registered Society, 98% of its members are persons belonging to oppressed class. On the request of the said Society, the respondent No.2 Kandla Port Trust, in its resolution dated 28.06.1989 and 29.06.1989 resolved that 100 plots each admeasuring 133.50 sq. mtrs. in the Green Belt area, Sector 14,

Gandhidham Township be allotted to the petitioner society for residential purpose on payment of prescribed development charges at the rate of Rs.56/- per sq.mtr. or part thereof and the development charges be payable annually on standard terms and conditions of 99 years lease. This resolution was subject to the approval of the Central Government under the provisions of section 34(1) of the Gujarat Major Port Trust Act, 1964 (hereinafter, referred to as "the Act of 1964"). The grievance of the petitioner is that, inspite of the fact that the trust has made recommendations to the respondent No.1 - Union of India, the approval has not yet been granted under the provisions of section 34(1) of the Act of 1964.

3. An affidavit has been filed byone Mr L.G.Bhatt, Deputy Secretary, Kandla Port Trust, on behalf of the respondent No.2. Shri Ravindra Nath Verma, Director, Ministry of Surface Transport, Government of India has also filed an affidavit on behalf of the respondent No.3. The reply is ofcourse not on record as the same appears to have not been tendered, but a copy of the same has been given to the learned counsel for the petitioner. I have perused the reply. The main thrust of the reply is that an approval can be granted only under the provisions of section 34(1) of the Act of 1964 as per the Guidelines to the Port Trust regarding land management from time to time. It is submitted that, under the Guidelines, allotment of land for the employees to construct the quarters and to own them as owners, is not permitted.

4. It is contended by Mr Nanavati, learned counsel appearing for the petitioner that, at the first instance, lno reply has been given by the respondent No.1 to the petitioner society. Be that as it may; the only reason given in the reply to the petition is that land cannot be allotted to the employees to construct quarters and to own them as owners. He submits that the society has not asked them to allot the land, giving ownership to its members. They have only asked to give the land on lease.

5. Considering the facts of the case, it would meet the ends of justice, if the directions are given to the respondent No.1 to give a fresh look to the entire matter, keeping in view the mandate of Article 38 of the Constitution of India to achive the object of bringing up the down trodden people so as to secure economic unity and minimise inequalities and imbalances in the society. In the class ridden society that we live in and in context of abject poverty and grave socio economic inequalities still prevailing in our society, socio

economic justice would obviously mean justice to weaker or poor sections of the society. It is a hard fact that a workman, more particularly belonging to backward class, cannot purchase a land for shelter in open market.

6. In view of the aforesaid, this Special Civil Application is allowed and the respondent - Union of India is directed to give a fresh look to the entire matter in light of the aforesaid observations and decide the same within a period of two months from the date of receipt of the writ. It will be open for the petitioners to make a further representation in the matter. If necessary, the respondent - Union of India may also obtain the fresh view from Kandla Port Trust, including the location. In case the location recommended is not available for any reason, an alternative land may also be considered. Rule made absolute to the aforesaid extent. No order as to costs.

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